

8/4/2022 10:50 AM
22CV25652

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

DAVID DYSKTRA

Plaintiff,

v.

COSTCO WHOLESALE CORPORATION,
a foreign business corporation,

Defendant.

NO.:

COMPLAINT

(Negligence, Premises Liability)

CLAIM FOR \$1,037,000
ORS 21.160(1)(c)

**CLAIM NOT SUBJECT TO
MANDATORY ARBITRATION**

Plaintiff alleges:

Count I

(Negligence)

1.

At all times material hereto, defendant Costco Wholesale Corporation (hereinafter "Costco") was an active foreign business corporation doing business throughout the State of Oregon and Multnomah County. At all times material hereto defendant acted through their employees and/or agents either actual or apparent.

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1 – COMPLAINT

SOKOL & ASSOCIATES, P.C.
Attorneys at Law
300 Oswego Pointe Drive, Suite 101
Lake Oswego, OR 97034
Phone 503.228.6469 Fax: 503.228.6551

2.

On or about May 1, 2021, Plaintiff was a business invitee and customer at the Clackamas Costco (at 13130 SE 84th Avenue, Clackamas). Mr. Dysktra sat on one of the display chairs provided for customers, when because of the unreasonable conduct of Defendant the chair collapsed causing bodily injuries to the Plaintiff as hereinafter alleged. The chairs were displayed at the store for customers to sit on them to try them out.

4.

The conduct of the Defendant by and through their employees and/or agents, either actual or apparent, combining and concurring was negligent in one or more of the following ways:

- (a) In failing and/or neglecting to install screws and hardware in the display chairs when they knew or reasonably should have known that the chair might collapse injuring anyone who sat on the chairs;
- (b) In failing and/or neglecting to have supervisors familiar with the assembling of the chairs and watching and participating in their assembly;
- (c) In failing and/or neglecting to follow construction instructions and diagrams when building the chairs;
- (d) Placing the chairs in a place designed for customers to sit on them when Defendant knew or reasonably should have known that they were unsafe;
- (e) In failing and/or neglecting to test and inspect chairs by sitting on them prior to making them available for customers to sit on; and
- (f) In failing and/or neglecting to warn people about any restrictions on sitting on the display chairs.

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2 – COMPLAINT

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3 As a direct and proximate result of the unreasonable conduct of the Defendant,

4 Plaintiff unexpectedly crashed onto the hard surface floor which resulted in a

5 compression injury to his mid and lower spine, superimposed upon previous lumbar

6 spinal surgeries at L2/L3 for spinal stenosis and neurogenic claudication. Plaintiff had

7 spinal and other orthopedic hardware in place prior to the collapse of the chair and is

8 facing a possible surgical hardware revision and foraminotomies at L5/SI, Plaintiff is

9 going to undergo a multiple level lumbar fusion at L4/L5 and L3/L4 with significant

10 limitations of the range of motion of his spine and lower extremities. Plaintiff also

11 sustained bilateral compression of his spinal discs L5/SI causing his previously existing

12 mild lumbar stenosis symptoms to increase significantly which resulted in new right leg

13 sciatica and increased left leg sciatica. The damages of the trauma to his multiple spinal

14 disc spaces caused other additional limitations of movement, weakness, and increased

15 pain.

16 Plaintiff has been rendered sick, sore, and nervous, emotionally distressed and

17 Plaintiff's injuries are permanent and progressive, all to his non-economic damages in

18 the sum of \$750,000.

19 6.

20 In an effort to cure his injuries, Plaintiff has incurred drug, surgical, medical

21 x-ray, and hospital-related bills in the approximate sum to date of \$10,000 and will incur

22 future medical and rehabilitative bills in the approximate sum of \$60,000. Plaintiff has

23 lost income in the sum to date of \$17,000 all to his economic damages in said sum.

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28 3 – COMPLAINT

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7.

Plaintiff worked as a fishing guide and as a further direct and proximate result of his injuries and the need for additional surgery due to the aggravation to his pre-existing spinal damages, Plaintiff has sustained a permanent impairment of his wage earning capacity in the sum of \$200,000 all to his economic damages in said sum.

WHEREFORE, Plaintiff requests judgment against Defendant for Plaintiff's economic and non-economic damages, as well as Plaintiff's costs and disbursements incurred, and such other relief as the court deems equitable and just.

DATED: August 2, 2022

SOKOL & ASSOCIATES, P.C.

By


LARRY N. SOKOL (OSB #722475)
of Attorneys for Plaintiff
larry@sokol-law.net

4 – COMPLAINT

SOKOL & ASSOCIATES, P.C.
Attorneys at Law
300 Oswego Pointe Drive, Suite 101
Lake Oswego, OR 97034
Phone 503.228.6469 Fax: 503.228.6551